

Application No.: 09/982,307

Docket No.: 10003714-1
AGIL-27470

REMARKS

Reconsideration and Allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 21-37 are pending in this application.

Claims 21, 34, 35, 36 and 37 are currently amended.

Regarding to § 102 Rejection

Claims 21-23, 26-34 and 36 were rejected under 35 U.S.C. §102(b) for being anticipated by *Lipshutz et al.* ("*Lipshutz*") (U.S. Patent No. 5,856,174). Applicant would agree that *Lipshutz* teaches the usage of a fluid reservoir along with another reservoir connected to the fluid reservoir via a tube that is a waste reservoir. The Examiner points out that *Lipshutz* teaches, in Figure 4, a fluid reservoir numbered 402 that is connected to three lines as shown in panel A. In panel B, *Lipshutz* shows another embodiment of the device, but where the waste reservoir is connected to the storage reservoir via a tube and both are each also connected to another tube. Applicant respectfully points out that this *Lipshutz* description requires two reservoirs connected to each other by a tube and is structurally different from embodiments of the claimed invention, as amended. The *Lipshutz* description requires two reservoirs with a tube between them which takes up more space than a single reused reservoir. Such additional space could be decreased by reusing the same fluid reservoir that provides an initial fluid for receiving a waste fluid after the initial fluid was provided. Applicant respectfully points out that a structural difference does exist.

Furthermore, the *Lipshutz* reference does not require that the base portion its device "have a liquid volume capacity of at least twice the liquid volume capacity of" the reaction chamber portion of the *Lipshutz* device.

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With respect to Claim 21, this claim as amended recites, among other things "a fluid reservoir...connected to said first tube, said fluid reservoir containing fluid that is to be provided to said associated sensing cartridge body via said first tube, said fluid reservoir being reused as a waste reservoir connected to a second tube that receives waste fluid from said sensing cartridge body after said fluid is provided to said sensing cartridge body via said first tube." Structurally, the reservoir is found on a companion body fluid analyzing cartridge. Although the companion body fluid analyzing cartridge is sometimes separate from an associated sensing cartridge body, the claim recites that the companion body fluid analyzing cartridge is "detachably connected to a side of an associated sensing cartridge body." As such, Applicant respectfully points out that it is clear that a structural difference does exist between the recited invention and *Lipshutz* because *Lipshutz* does not have a single reservoir that structurally performs the function of two reservoirs.

Furthermore, claim 21 as amended, recites that the fluid reservoir, of the companion body fluid analyzing cartridge has "a liquid volume capacity of at least twice the liquid volume capacity of the associated sensing cartridge." *Lipshutz* does not anticipate such a large liquid capacity differential. As such, Applicant respectfully requests the §102 rejection be withdrawn and submits that claim 21 is ready for allowance.

Independent claim 34 has been amended to recite that there is a companion body fluid analyzing cartridge body that comprises . . . "a same reusable fluid reservoir." The same reusable fluid reservoir provides a reagent to a sensor cartridge, which is "detachably connected to and receives said reagent from said reagent storage system of said companion body fluid analyzing cartridge body." The detachable sensor cartridge also provides "waste fluid to the waste retrieval system on said companion body fluid analyzing cartridge body after said reagent is received by said sensor cartridge." As such, it is clear that a structural difference exists

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between claim 34 and the cited art, *Lipshutz* because *Lipshutz* does not reuse the same fluid reservoir after using it to provide fluid to a detachable cartridge body. *Lipshutz*'s device requires more space because its fluid reservoir and its waste reservoir are not one and the same element, but instead are separated by a tube. In fact, as discussed above, the Examiner indicated that *Lipshutz* teaches, in Figure 4, a fluid reservoir numbered 402 which is connected to three lines as shown in panel A. In panel B, *Lipshutz* shows the same device "but where the waste reservoir and the storage reservoir are both connected to each other and to two tubes." Applicant respectfully points out that there is a structural difference between "two reservoirs connected to each other by a tube" of *Lipshutz* and the amended claim 34.

Furthermore, claim 34 has been further amended to recite, among other things, that the "companion body fluid analyzing cartridge body [has] a liquid volume capacity of at least twice the liquid volume capacity of said sensor cartridge," which is not anticipated by *Lipshutz*. As such, Applicant respectfully submits that claim 34 is not anticipated by *Lipshutz* and respectfully requests that this §102 rejection be withdrawn.

Claim 36, as amended, recites, among other things, a companion body fluid analyzing cartridge body comprising "a same multiuse fluid reservoir." The "same multiuse fluid reservoir [is] connected to said first tube for providing fluid to said assay element preparation system and connected to said second tube for receiving a waste fluid from said waste retrieval system." Applicant respectfully points out that the multiuse fluid reservoir provides the first fluid to a sensor cartridge that is detachably connected to the companion body fluid analyzing cartridge body and then after providing the first fluid receives a waste fluid from the "second tube of said companion body fluid analyzing cartridge body." The "waste fluid [is] deposited in the same multiuse fluid reservoir" from which the first fluid originated. As discussed above, Applicant respectfully submits that the recited structural configuration requires less space on the assay

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device and the companion body fluid analyzing cartridge body than the structural configuration taught by *Lipshutz*. Such a structure is materially different than *Lipshutz* and can be easily patentably distinguished there from. Furthermore, claim 36 has been amended to recite that the "companion body fluid analyzing cartridge body [has] a liquid volume capacity of at least twice the liquid volume capacity of said sensor cartridge," which is also not anticipated by the cited art. As such, Applicant respectfully submits that claim 36 is not anticipated by *Lipshutz* and respectfully requests that the §102 rejection be withdrawn.

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Regarding the § 103 Rejection

Claims 24, 25, 35 and 37 were rejected under 35 U.S.C. §103(a) as being rendered obvious by *Lipshitz et al.* ("*Lipshutz*") (U.S. Patent No. 5,856,174) in view of *Leiner et al.* ("*Leiner*") (U.S. Patent No. 6,037,178). As discussed above with respect to the 102 rejection, Applicant respectfully points out that neither *Lipshutz* nor *Leiner* teach, allude to or render obvious, the use of a reusable or multi-use fluid reservoir in a companion body fluid analyzing cartridge body that may be detachably connected to a sensor cartridge. Such a structural configuration takes up less space than the configurations of the cited art. As discussed above, in the §102 rejection and herein incorporated, Applicant respectfully points out that neither *Lipshutz* nor *Leiner* teach, allude to or render obvious, a sensor cartridge that is detachably connected to and "receiving said carrier fluid from said first fluid tube, and then providing a waste fluid to the said second fluid tube." The structure required by the claims is different from the structure of either *Lipshutz* or *Leiner* because fewer reservoirs are needed, in the recited claims, to provide a fluid from a detachable portion of an assay and then receive waste fluids from the sensor cartridge back to the detachable companion body fluid analyzing cartridge.

Furthermore, the cited art does not teach, allude to, or render obvious providing a companion cartridge body that has a liquid volume capacity of at least twice the liquid volume capacity of another detachable portion of the cartridge. As such, Applicant respectfully requests that the §102 rejection be withdrawn and submits that claims 35 and 37 are not anticipated by the cited art.

The remaining claims being dependent upon the discussed independent claims are therefore not rendered obvious or anticipated by the cited art for at least the same reasons as discussed above.

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In view of the above amendments, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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